

**ADJOURNMENT**

On motion of Senator Brooks the Senate at 12:25 o'clock p.m. adjourned until 11:00 o'clock a.m. Monday, April 27, 1981.

**APPENDIX**

Sent to Governor  
(April 22, 1981)

<b>S.B. 11</b>	<b>S.B. 482</b>
<b>S.B. 15</b>	<b>S.B. 490</b>
<b>S.B. 183</b>	<b>S.B. 655</b>
<b>S.B. 193</b>	<b>S.B. 726</b>
<b>S.B. 290</b>	<b>S.B. 771</b>
<b>S.B. 293</b>	<b>S.C.R. 37</b>
<b>S.B. 373</b>	<b>S.C.R. 92</b>
<b>S.B. 429</b>	

Sent to Comptroller  
(April 22, 1981)

**S.B. 392**

**FIFTY-EIGHTH DAY**  
(Monday, April 27, 1981)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

A quorum was announced present.

The Reverend Dr. Gerald Mann, Senate Chaplain, offered the invocation as follows:

Our Father, remind us that we do not have the privilege of initiative and referendum when it comes to the laws that You have written. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, April 22, 1981, was dispensed with and the Journal was approved.

**MESSAGE FROM THE HOUSE**

House Chamber  
April 27, 1981

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 14**, Relating to eligibility for disabled parking privileges. (With amendment)

**S.B. 50**, Relating to the competency and certification of public school teachers. (With amendment)

**S.B. 319**, Relating to the definition of "modular home" in the Texas Manufactured Housing Standards. (With amendment)

**S.B. 322**, Relating to increasing benefits paid to annuitants of the Teacher Retirement System of Texas. (With amendments)

**H.B. 113**, Relating to career education.

**H.B. 152**, Relating to the pay of election judges and clerks.

**H.B. 296**, Relating to salary step credit for vocational teachers' work experience.

**H.B. 416**, Relating to qualifications, appointment, and employment of peace officers.

**H.B. 764**, Relating to reduction in homeowners insurance premiums for compliance with certain security standards.

**H.B. 911**, Providing for the inclusion of livestock and poultry with farm products as exempt from taxation.

**H.B. 990**, Relating to intercity rail passenger services.

**H.B. 992**, Relating to highway signs directing persons to passenger train stations.

**H.B. 1100**, Relating to the percentage limit on school district tax bond indebtedness.

**H.B. 1210**, Relating to the investment of part of the general revenue fund in gold and the issuance of gold sesquicentennial commemorative medals.

**H.B. 1234**, Relating to the family farm and ranch security loan program.

**H.B. 1434**, Relating to the authority of the Parks and Wildlife Department to lease state park land for grazing or farming.

**H.B. 1407**, Relating to the administration and regulation of solid waste management practices under the Solid Waste Disposal Act.

**H.B. 1561**, Relating to prohibition of certain conduct of the legal counsel and governing body members of a regional planning commission.

**H.B. 1617**, Relating to fees charged by sheriffs and constables.

**H.B. 1623**, Relating to the disposition of funds collected or received by certain state agencies.

**H.B. 1705**, Relating to the reinstatement or extension of the term of restrictive covenants applicable to certain residential real estate subdivisions.

**H.B. 1729**, Relating to regulation of private degree-granting institutions of higher education.

**H.B. 1812**, Relating to disclosure requirements for retirement villages and certain facilities that provide care for individuals.

**H.B. 1914**, Relating to the change of domicile of a state bank.

**H.B. 2156**, Relating to authorizing and regulating the issuance of uncertified corporate securities.

**H.B. 2232**, Permitting the application of the act to certain cities with a population of 400,000 or more.

**H.C.R. 157**, Judge Reynaldo Garza celebrates the 20th anniversary of his appointment to the federal bench on April 29, 1981.

The House concurred in Senate amendments to **H.B. 1228** by record vote of 114 Ayes, 28 Nays, 1 Present-not voting.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 425**.

House Conferees: Polk, Chairman; Anita Hill, Maloney, Nowlin, Pierce.

**H.B. 41**, Relating to retail sales on Saturday and Sunday, was tabled by a Record Vote of 82 yeas, 59 nays, and 3 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### BILLS AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolution:

**S.C.R. 94**  
**S.B. 297**  
**S.B. 308**  
**S.B. 371**  
**S.B. 728**  
**S.B. 749**

**CO-AUTHOR OF SENATE BILL 381**

On motion of Senator Wilson and by unanimous consent, Senator Harris will be shown as Co-author of S.B. 381.

**REPORTS OF STANDING COMMITTEES**

Senator Farabee submitted the following report for the Committee on State Affairs:

**H.B. 3**  
**S.B. 1221**  
**S.B. 714**  
**S.B. 692**  
**S.B. 648**  
**S.B. 613**  
**S.B. 1002**  
**C.S.S.B. 776** (Read first time)  
**C.S.S.B. 187** (Read first time)

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

**H.B. 275**  
**S.B. 934**  
**H.B. 873**  
**C.S.S.B. 1149** (Read first time)  
**C.S.S.B. 413** (Read first time)

Senator Brooks submitted the following report for the Committee on Human Resources:

**S.B. 973**  
**S.B. 972**  
**S.B. 457**  
**S.B. 1127**  
**S.C.R. 35**

Senator Truan, Acting Chairman, submitted the following report for the Committee on Human Resources:

**C.S.S.B. 644** (Read first time)  
**C.S.S.B. 1173** (Read first time)  
**C.S.S.B. 1041** (Read first time)

Senator Brooks submitted the following report for the Committee on Human Resources:

**C.S.S.B. 1087** (Read first time)

Senator Caperton, Acting Chairman, submitted the following report for the Committee on Human Resources:

**C.S.S.B. 880**

Senator Harris submitted the following report for the Committee on Economic Development:

S.B. 809  
H.B. 941  
H.B. 1093  
H.B. 859  
H.B. 858  
C.S.H.B. 857 (Read first time)  
C.S.S.B. 745 (Read first time)  
S.B. 910

Senator Brooks submitted the following report for the Committee on Human Resources:

C.S.S.B. 315 (Read first time)

#### SENATE BILLS AND RESOLUTIONS ON FIRST READING

On motion of Senator Brooks and by unanimous consent, the following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.B. 1230 by Brooks, Uribe, Truan Human Resources  
Relating to authorizing the Texas Board of Health to establish certain health services at the Harlingen State Chest Hospital.

S.B. 1231 by Glasgow Natural Resources  
Creating a conservation and reclamation district without taxing power (to be known as GRAHAM WATER SUPPLY DISTRICT) over a part of Young County, Texas; providing and limiting the powers of such district; and declaring an emergency.

S.B. 1232 by Mauzy Intergovernmental Relations  
Relating to time for asserting claim against city.

S.B. 1233 by Mauzy State Affairs  
Relating to the composition of the Texas Employment Commission; amending Section 10, Texas Unemployment Compensation Act, as amended (Article 5221b-4a, Vernon's Texas Civil Statutes).

S.B. 1234 by Santiesteban Intergovernmental Relations  
Authorizing certain counties to establish certain kinds of public facilities, to levy a hotel occupancy tax, and to issue bonds related thereto.

S.B. 1235 by Glasgow Intergovernmental Relations  
Relating to the leasing, as lessor, of hospital facilities of the Cisco Hospital District; the transfer of land and improvements from the Cisco Hospital Authority to the Cisco Hospital District; providing for severability; and declaring an emergency.

S.B. 1236 by Parker Intergovernmental Relations  
Relating to the definitions of "mortgagor" and "economically depressed or blighted area" in the Texas Housing Finance Corporations Act.

**S.B. 1237** by Ogg Intergovernmental Relations  
Relating to the authority of certain cities and counties to undertake and finance public improvements and to impose a hotel occupancy tax.

**S.B. 1240** by Brooks, Williams, Education  
Mengden  
Relating to the validation of boundary extensions by certain junior colleges and of the taxes levied and bonds voted or issued after the extension of boundaries.

**S.C.R. 95** by Traeger Natural Resources  
Memorializing Congress to repeal the restrictions on natural gas use.

**S.C.R. 97** by Doggett Administration  
Granting William W. Holmes, Jr., permission to sue the State.

#### HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

- H.B. 34**, To Committee on State Affairs.
- H.B. 35**, To Committee on Economic Development.
- H.B. 1269**, To Committee on Education.
- H.B. 1899**, To Committee on Natural Resources.
- H.B. 2318**, To Committee on Finance.
- H.B. 778**, To Committee on Intergovernmental Relations.

#### GUESTS PRESENTED

Senator Truan was recognized and presented Ruben Bonilla, National President of LULAC and Arnold Torres, Executive Vice President of LULAC.

These gentlemen were welcomed as guests of the Senate today.

#### SENATE RESOLUTION 547

Senator Brooks offered the following resolution:

**S.R. 547**, Recognizing April 25, 1981, through May 4, 1981, as Gamma Phi Beta Sorority/Lambda Chi Fraternity Week to benefit the Autistic Society of Texas.

The resolution was read and was adopted.

#### SENATE RESOLUTION 548

Senator Vale offered the following resolution:

**S.R. 548**, Honoring Mrs. Lila Cockrell upon her retirement from the Mayoralty of the City of San Antonio.

The resolution was read and was adopted.

**MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was referred to the Subcommittee on Nominations:

Austin, Texas  
April 27, 1981

TO THE SENATE OF THE SIXTY-SEVENTH LEGISLATURE,  
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE STATE PURCHASING AND GENERAL  
SERVICES COMMISSION:

For a term to expire January 31, 1985:

O. MICHAEL PRIGMORE of Pampa, Gray County, will be filling the unexpired term of Robert H. Dedman of Dallas, Dallas County, who resigned.

TO BE A MEMBER OF THE TEXAS HEALTH FACILITIES  
COMMISSION:

For a term to expire February 1, 1985:

BETTY HIMMELBLAU of Austin, Travis County, will be filling the unexpired term of William Ray Keener of Brownwood, Brown County, who is deceased.

TO BE CANADIAN RIVER COMPACT COMMISSIONER:

For a term to expire December 31, 1981:

ROBERT D. LEMON of Perryton, Ochiltree County, will be replacing Arthur P. Duggan, Jr. of Littlefield, Lamb County, whose term expired.

I ask the advice, consent and confirmation of the Senate with respect to the following appointment pursuant to Senate Bill No. 596:

TO BE JUDGE OF THE 287TH JUDICIAL DISTRICT COURT, BAILEY  
AND PARMER COUNTIES, UNTIL THE NEXT GENERAL ELECTION  
AND UNTIL HIS SUCCESSOR SHALL BE DULY ELECTED AND  
QUALIFIED:

JACK D. YOUNG of Muleshoe, Bailey County.

I ask the advice, consent and confirmation of the Senate with respect to the following appointment pursuant to Senate Bill No. 596:

TO BE DISTRICT ATTORNEY OF THE 286TH JUDICIAL DISTRICT,  
COCHRAN AND HOCKLEY COUNTIES, UNTIL THE NEXT GENERAL  
ELECTION AND UNTIL HIS SUCCESSOR SHALL BE DULY ELECTED  
AND QUALIFIED:

WARREN G. TABOR, JR. of Levelland, Hockley County.

Respectfully submitted,

William P. Clements, Jr.  
Governor of Texas

**GUEST PRESENTED**

The President presented The Honorable Mickey Leland to the Members of the Senate.

Congressman Leland, representing the 18th Congressional District, Houston, addressed the Senate.

**GUEST PRESENTED**

Senator Farabee escorted The Honorable Charles W. Stenholm to the President's Rostrum.

Congressman Stenholm was presented to the Senate and addressed the Members briefly.

**SENATE BILL 126 WITH HOUSE AMENDMENT**

Senator Kothmann called S.B. 126 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Nabers

Substitute the following for S.B. 126:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the penalties for certain offenses committed against children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 21.03(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if he commits rape as defined in Section 21.02 of this code or rape of a child as defined in Section 21.09 of this code and [he]:

(1) causes serious bodily injury or attempts to cause death to the victim or another in the course of the same criminal episode; or

(2) compels submission to the rape by threat of death, serious bodily injury, or kidnapping to be imminently inflicted on anyone [-]; or

(3) the victim is younger than 14 years.

SECTION 2. Section 21.05(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if he commits sexual abuse as defined in Section 21.04 of this code or sexual abuse of a child as defined in Section 21.10 of this code and [he]:

(1) causes serious bodily injury or attempts to cause death to the victim or another in the course of the same criminal episode; or

(2) compels submission to the sexual abuse by threat of death, serious bodily injury, or kidnapping to be imminently inflicted on anyone [-]; or

(3) the victim is younger than 14 years.

SECTION 3. Section 21.11, Penal Code, is amended to read as follows:



(a) A person commits an offense if, with a child younger than 17 years and not his spouse, whether the child is of the same or opposite sex, he:

- (1) engages in sexual contact with the child; or
- (2) exposes his anus or any part of his genitals, knowing the child is present, with intent to arouse or gratify the sexual desire of any person.

(b) It is a defense to prosecution under this section that the child was at the time of the alleged offense 14 years or older and had, prior to the time of the alleged offense, engaged promiscuously in:

- (1) sexual intercourse;
- (2) deviate sexual intercourse;
- (3) sexual contact; or
- (4) indecent exposure as defined in Subsection (a)(2) of this

section.

(c) It is an affirmative defense to prosecution under this section that the actor was not more than two years older than the victim and is of the opposite sex. [An offense under this section is a felony of the third degree.]

(d) an offense under Subsection (a)(1) of this Section is a felony of the second degree and an offense under Subsection (a)(2) of this section is a felony of the third degree.

SECTION 4. Sections 22.04(b) and (c), Penal Code, as amended, are amended to read as follows:

(b) An offense under Subsection (a)(1), (2), or (3) of this section is a felony of the first ~~[second]~~ degree unless the conduct is engaged in recklessly or with criminal negligence ~~[negligently]~~ in which event it shall be a felony of the third degree.

(c) An offense under Subsection (a)(4) of this section is a felony of the second ~~[third]~~ degree unless the conduct is engaged in recklessly or with criminal negligence ~~[negligently]~~ in which event it shall be a Class A misdemeanor.

SECTION 5. This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this Act were not in force. For the purposes of this section, an offense is committed on or after the effective date of this Act if every element of the offense occurs on or after the effective date.

SECTION 6. This Act takes effect September 1, 1981.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Kothmann moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 126 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Kothmann, Chairman; Glasgow, Meier, Caperton, Mengden.

#### **SENATE BILL 1096 ON SECOND READING**

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 1096**, Relating to eligibility for extended unemployment compensation benefits; amending Section 6-A, Texas Unemployment Compensation Act, as amended (Article 5221b-4a, Vernon's Texas Civil Statutes), by adding a new Subsection (h).

The bill was read second time.

(President Pro Tempore Traeger in Chair)

Senator Caperton offered the following committee amendment to the bill:

Amend **S.B. 1096**, Section 1 (h) (7) to add the words "or extended" between "regular" and "benefits" so that it reads as follows:

"(7) An individual shall not be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period if such individual has been disqualified for regular or extended benefits under this Act because he or she voluntarily left work, was discharged for misconduct, or failed to accept an offer of or apply for suitable work unless the disqualification imposed for such reasons has been terminated in accordance with specific conditions established under this Act requiring the individual to perform service for remuneration subsequent to the date of such disqualification."

The committee amendment was read and was adopted.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

#### **SENATE BILL 1096 ON THIRD READING**

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1096** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### **COMMITTEE SUBSTITUTE SENATE BILL 738 ON SECOND READING**

On motion of Senator Jones and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 738**, Relating to discontinuance and replacement of group and group-type accident and health insurance.

The bill was read second time and was passed to engrossment.

¶ **COMMITTEE SUBSTITUTE SENATE BILL 738 ON THIRD READING**

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 738** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed.

(President in Chair)

**SENATE CONCURRENT RESOLUTION 98**

Senator Glasgow offered the following resolution:

**S.C.R. 98**, In memory of Richard Lee Upham.

The resolution was read.

On motion of Senator Harris and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Glasgow and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

**CONSIDERATION OF NOMINATIONS**

The President announced that the time had arrived for the Senate to consider the nominations to agencies, boards and commissions. Notice of submission of these names was given by Senator Brooks on Wednesday, April 22, 1981.

**EXECUTIVE SESSION**

Senator McKnight moved the Senate meet in Executive Session to consider the nominations.

The motion prevailed.

**RECORD OF VOTES**

Senators Ogg and Doggett asked to be recorded as voting "Nay" on the motion that the Senate meet in Executive Session.

Accordingly, the President at 11:50 o'clock a.m. directed all those not entitled to attend the Executive Session of the Senate to retire from the Senate Chamber and instructed the Sergeant-at-Arms to close all doors leading from the Chamber.

**IN LEGISLATIVE SESSION**

At the conclusion of the Executive Session, the President called the Senate to order as In Legislative Session at 12:38 o'clock p.m.

Senator McKnight moved confirmation of the nominees as reported from the Subcommittee on Nominations. The report was filed Wednesday, April 22, 1981.

The President asked if there were requests to sever nominees.

There were no requests offered.

**NOMINEES CONFIRMED**

The nominees as reported by the Subcommittee on Nominations were confirmed by the following vote: Yeas 31, Nays 0.

**COMMUNICATION FROM THE GOVERNOR**

The following Communication from the Governor was read.

**OFFICE OF THE GOVERNOR**

April 27, 1981

Mrs. Betty King  
Secretary of the Senate  
Capitol Station  
Austin, Texas

Dear Mrs. King:

Please be advised that at the request of the nominee I have withdrawn the following:

**TO BE A MEMBER OF THE TEXAS BOARD OF CORRECTIONS:**

For a six-year term to expire February 15, 1987:

Othal E. Brand  
Hidalgo County  
McAllen, Texas

Sincerely,

William P. Clements, Jr.  
Governor of Texas

On motion of Senator McKnight and by unanimous consent, the request was granted and the nomination was returned to the Governor.

**MEMORIAL RESOLUTIONS**

**S.R. 543** - By Farabee: Memorial resolution for F. T. Felty, Sr.

**S.R. 545** - By Doggett: Memorial resolution for Dr. Norris G. Davis.

**S.R. 546** - By Mengden: Memorial resolution for John B. Holmes, Sr.

**WELCOME AND CONGRATULATORY RESOLUTIONS**

**H.C.R. 155** - (Mauzy): Extending congratulations to Representative Chris Semos for being elected Oak Cliff "Man of the Year".

**H.C.R. 157** - (Uribe): Extending congratulations to Judge Reynaldo Garza on the 20th anniversary of his appointment to the federal bench on April 29, 1981.

**S.R. 542** - By Brooks: Extending congratulations to Louis and Grace Muecke.

**S.R. 544** - By Mengden: Extending congratulations to Frank and Charlotte Boyle.

**S.R. 549** - By Glasgow, Caperton: Commending Clyde H. Wells for his work in bettering the Texas A&M University System.

**S.R. 550** - By Glasgow: Extending welcome to the Young Politicians from Weatherford.

**ADJOURNMENT**

On motion of Senator Brooks the Senate at 12:50 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow.

**APPENDIX**

Sent to Governor  
(April 24, 1981)

**S.B. 392**

Signed by Governor  
(April 22, 1981)

<b>S.B. 305</b>	Effective immediately
<b>S.B. 370</b>	Sections 1-5 Effective July 1, 1981 Section 6 Effective January 1, 1982
<b>S.B. 389</b>	Effective September 1, 1981
<b>S.B. 586</b>	Effective immediately
<b>S.B. 767</b>	Effective immediately